

The Honorable John C. Coughenour

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

AZIZ SAFOUANE, et al.,

Plaintiffs,

v.

STEPHEN HASSETT, et al.,

Defendants.

NO. C00-0621-JCC

**ORDER ON STATE DEFENDANTS'
MOTION TO FILE DOCUMENTS
UNDER SEAL**

THIS MATTER comes before the Court on the motion of the state defendants (assistant attorneys general and DSHS/DCFS social workers/supervisors) (Dkt. No. 284), pursuant to Local CR 5(g), for an order permitting certain documents relied upon in support of the state defendants' pending summary judgment motion to be filed under seal, as well as Plaintiffs' Response (Dkt. No. 292). The Court has carefully considered the moving papers and the balance of relevant materials in the case file, and has determined that oral argument is not necessary. The Court hereby GRANTS the motion and rules as follows.

I. DOCUMENTS TO BE FILED UNDER SEAL

The following documents as listed and identified in paragraph 3 of the declaration of counsel in support of the state defendants' summary judgment motion, will be sealed:

Exhibit D: Findings of Fact, Conclusions of Law and Order of Dependency, entered May 4, 1995, in consolidated dependency proceedings in King County Superior Court, Juvenile Division

Exhibit E: Hearing, Findings and Order of Disposition on Dependency, entered May 4, 1995, in consolidated dependency proceedings in King County Superior Court, Juvenile Division

Exhibit F: Findings of Fact, Conclusions of Law and Order of Dependency, entered July 29, 1996, in King County Superior Court, Juvenile Division, cause number 96-7-00149-8 KNT

Exhibit G: Hearing, Findings and Order of Disposition on Dependency, entered August 23, 1996 in King County Superior Court, Juvenile Division, cause number 96-7-00149-8 KNT

Exhibit H: Order . . . Re: Visitation, entered March 27, 1997, in consolidated dependency proceedings in King County Superior Court, Juvenile Division

Exhibit I: Findings of Fact, Conclusions of Law and Order of Termination of Parent-Child Relationship, entered June 18, 1997, in consolidated dependency proceedings in King County Superior Court, Juvenile Division

Exhibit J: Findings of Fact, Conclusions of Law and Order of Dependency entered December 11, 1997, in King County Superior Court, Juvenile Division, cause number 97-7-02877-7 KNT

Exhibit K: Hearing, Findings and Order of Disposition on Dependency, entered December 11, 1997, in King County Superior Court, Juvenile Division, cause number 97-7-02877-7 KNT

Exhibit L: Decision on Termination entered January 20, 1999, in King County Superior Court, Juvenile Division, cause number 97-7-02877-7 KNT

Exhibit M: Order Denying Petition for Termination of Parental Rights, entered March 18, 1999, in King County Superior Court, Juvenile Division, cause number 97-7-02877-7 KNT

Exhibit N: Order on Civil Motion entered March 18, 1999, in King County Superior Court, Juvenile Division, cause number 97-7-02877-7 KNT

Exhibit O: Order Terminating Parental Rights entered November 28, 2000, in King County Superior Court, Juvenile Division, cause number 97-7-02877-7 KNT

Exhibit P: Findings of Fact, Conclusions of Law and Order of Dependency, entered August 19, 1999, in King County Superior Court, Juvenile Division, cause number 99-7-01849-2 KNT

Exhibit Q: Hearing, Findings and Order of Disposition on Dependency, entered August 19, 1999, in King County Superior Court cause number 99-7-01849-2 KNT

1 Exhibit R: Findings of Fact, Conclusions of Law, and Order of Termination of Parent-
2 Child Relationship, entered June 21, 2001, in King County Superior Court,
3 Juvenile Division, cause number 00-7-04138-0 KNT

4 **II. JUSTIFICATION FOR FILING DOCUMENTS UNDER SEAL**

5 Notwithstanding the strong presumption of public access to the court's files, the Court
6 finds that the state defendants have made a "compelling showing that the public's right of
7 access is outweighed by the interests of the public and the parties in protecting the court's files
8 from public review." Local Rules W.D. Wash. CR 5(g)(2); *see Kamakana v. City & County of*
9 *Honolulu*, 447 F.3d 1172, 1178-80 (9th Cir. 2006). All of the documents listed above are
10 expressly deemed confidential and restricted in their disclosure under the provisions of
11 Washington Revised Code § 13.50.100, which provides that "[r]ecords covered by this section
12 shall be confidential and shall be released only pursuant to this section and RCW 13.50.010."
13 WASH. REV. CODE § 13.50.100(2). No provision of Washington Revised Code §§ 13.50.010 or
14 13.50.100(2) covers the purely public release of such records, nor does any provision of either
15 statute cover public release for purposes of collateral litigation.

16 These confidential records are deemed "sealed from public access" in the state juvenile
17 courts and state courts of appeal. *In re Dependency of G.A.R.*, 150 P.3d 643, 643-44 (Wash.
18 Ct. App. 2007). They should be no less "sealed from public access" here, particularly when
19 the selected excerpts from those records quoted in support of the defendants' summary
20 judgment motion are sufficient to satisfy "the heart of the interest in ensuring the 'public's
21 understanding of the judicial process and of significant public events' " that is the
22 underpinning of "the strong presumption of access to judicial records." *Kamakana*, 447 F.3d
23 at 1179 (internal citations omitted).

24 The confidentiality and anonymity of juvenile court records under Washington Revised
25 Code Chapter 13.50 reflect a strong public policy over "concerns for the privacy of the juvenile
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1 and of his or her family.” *See Deer v. Dep’t of Soc. & Health Servs.*, 93 P.3d 195, 198 (Wash.
2 Ct. App. 2004). The juveniles involved in these dependency and termination proceedings are
3 not before this court to protect their interests in the privacy of these records. Allowing the
4 select excerpts to be made public while sealing the source documents consistent with the
5 statutory mandate of confidentiality strikes the appropriate balance between the competing
6 interests at play. Redaction of these juvenile court records alone to comply with Local Rule
7 W.D. Wash. CR 5.2 would not satisfy the confidentiality and privacy concerns reflected in
8 Washington Revised Code § 13.50.100(2).

9 Therefore, based on the foregoing findings and conclusions, is hereby ORDERED that
10 the documents listed herein be sealed. The Clerk shall maintain the sealed records as
11 indicated, and provide a copy of this order to all parties of record.

12 DATED this 1st day of April, 2009.

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John C. Coughenour
UNITED STATES DISTRICT JUDGE